IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3707 OF 2001
IN
FIRST APPEAL NO.1271 OF 2002

Smt Shalini Sakharam Bhaigade ...Applicant
Vs.
The Municipal Corpn. of Gr. Bombay ...Respondent

Shri S.A. Dhamale for the Applicant.
Smt Nisha A. Dabhale for the Respondent.

CORAM : A. S. OKA, J.
DATE : JUNE 15, 2006.

P.C.:

1. Rule. Respondent waives service. Taken up for hearing forthwith. The prayer clauses (c) and (d) in this Application are completely misconceived. In this Application for grant of interim relief during pendency of the Appeal such prayers containing final reliefs ought not to have incorporated.

2. As the Appeal is admitted for final hearing, the suit structure deserves to be protected.

3. Hence, Civil Application is disposed of by passing following order:

(i) Till the final disposal of the Appeal the Respondent-Corporation is restrained from demolishing the suit structure on the basis of

notice dated 01st December, 1997 and order dated 17th February, 1999 subject to condition that the Applicant will file an undertaking in this court in writing within period of three weeks from today stating therein that the Applicant will not create any third party interest in respect of the suit structure, he will not part with possession of the suit structure and he will not carry out any additions or alterations to the suit structure without permission of the Respondent-Corporation.

(ii) If undertaking is not filed within the stipulated time, interim relief will stand vacated without further reference to the court.

(iii) It is made clear that if the suit structure is covered by any policy of rehabilitation, the Respondent-Corporation will be entitled to apply for modification of this order.

(iv) There will be no orders as to costs.

JUDGE